

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

OSBALDO FLORES,

Plaintiff,

v.

Civ. No. 19-426 GBW/KRS

CITY OF LAS CRUCES, *et al.*,

Defendants.

**ORDER GRANTING STAY AND**  
**SETTING TELEPHONIC STATUS CONFERENCE**

THIS MATTER comes before the Court following the Motion Hearing held on January 10, 2020. *Doc. 48*. The parties have filed Cross-Motions for Summary Judgment, which have been fully briefed and argued. *Docs. 16, 32, 43, 48*. Plaintiff requests a stay as an alternative to summary judgment in his favor. *Doc. 38* at 39.

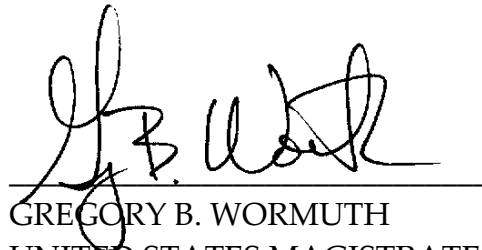
As explained at the hearing (*doc. 48*), the Court finds that it cannot proceed with most of Plaintiff's claims under *Heck v. Humphrey*, 512 U.S. 477, 487 (1994), which bars § 1983 claims in which "judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence." Because the presence or absence of probable cause for Plaintiff's arrest is a critical element in all of Plaintiff's claims except for excessive force, the Court will not decide those claims absent a reversal of Plaintiff's state court convictions. However, given the pendency of Plaintiff's appeal of his state court convictions and the overlapping nature of Plaintiff's claims, the Court will GRANT a limited stay pending a ruling from the New Mexico Court of Appeals.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Stay (*doc. 38* at 39) is GRANTED and the proceedings are hereby stayed until **August 3, 2020**.

IT IS FURTHER ORDERED that, if the New Mexico Court of Appeals issues a ruling on Plaintiff's appeal during the stay, the parties shall file a notice to the Court with the ruling attached.

The Court will hold a telephonic status conference on **August 3, 2020 at 2:00 p.m.** to discuss the progress of the appeal and the status of the case going forward. Counsel shall call Judge Wormuth's teleconference line at (877) 402-9753, access code 7578461 to connect to the proceedings.

**IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read "G.B. Wormuth", is written over a horizontal line.

GREGORY B. WORMUTH  
UNITED STATES MAGISTRATE JUDGE  
**Presiding by Consent**